

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6678

BILL NUMBER: HB 1458

NOTE PREPARED: Mar 4, 2003

BILL AMENDED: Feb 27, 2003

SUBJECT: Medicaid Prescription Drug Waiver.

FIRST AUTHOR: Rep. Brown C

FIRST SPONSOR: Sen. Miller

BILL STATUS: As Passed - House

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill provides that prior authorization is not required for a single source drug that is newly approved by the federal Food and Drug Administration (FDA) while the Drug Utilization Review Board (Board) is determining if the drug should be on the preferred drug list. The bill allows the Office of Medicaid Policy and Planning (OMPP) to add a drug that has been approved by the FDA to the preferred drug list without prior approval from the Board. It also permits the Board to add a drug that has been approved by the FDA to the preferred drug list. (Current law allows: (1) OMPP to add only new single source drugs to the preferred drug list without prior approval of the Board; and (2) the Board to add only new single source drugs to the preferred drug list.). The bill allows the Office of Medicaid Policy and Planning to limit access to prescription drugs for prescription drug program recipients to prevent fraud and inappropriate utilization. It makes cross references. The bill provides that the Office of Medicaid Policy and Planning may implement the same preferred drug list that is used in the state Medicaid program within the Prescription Drug Program

Effective Date: (Amended) Upon passage; July 1, 2003.

Explanation of State Expenditures: (Revised) This bill would require OMPP to provide any new single source drug that is newly approved by the FDA without restriction until the Board makes a determination to exclude the drug from the PDL. If the Board makes a determination to include the drug on the PDL, it would continue to be provided without prior authorization. (Currently, the Board has 60 days to determine whether to include a new single source drug on the PDL). The fiscal impact of this provision would be dependent upon individual circumstances surrounding a new single source drug.

The bill also requires the Board to actively exclude a drug from the PDL, rather than determine which drugs

are to be included on the list.

The bill also addresses the issue of prior authorization for mental health drugs. Current law requires that all drugs prescribed for the treatment of mental illness must be included on the Medicaid preferred drug list (PDL); if a drug is included on this list, it is not subject to prior authorization. Current law allows some circumstances under which the Office of Medicaid Policy and Planning may require prior authorization for a drug on the PDL. One of those special circumstances is to permit reimbursement for a medically necessary brand name drug that is subject to generic substitution under I.C.16-42-22-10. Currently, when a pharmacist fills a prescription written for a recipient of Medicaid, CHIP, or Medicare, if a generic equivalent is available and is cheaper, the generic must be substituted and the recipient told of the substitution. The pharmacist may only fill the prescription with the brand name drug if the provider has hand-written the words "Brand Medically Necessary" on the prescription. A Brand Medically Necessary prescription requires prior authorization and the provider must explain why the branded drug is necessary. This bill references the code specifying that mental health drugs are not subject to prior authorization. OMPP reports that mental health drugs are in practice already excluded from prior authorization under this provision; no fiscal impact appears to be associated with this change.

The bill also allows OMPP to add any drug that has been approved by the federal Food and Drug Administration (FDA) to the PDL without the approval of the Drug Utilization Review Board, which is charged with the research, development, and approval of the PDL. The bill also allows the Board to add any FDA-approved drug to the PDL. Current statute allows the addition of a new single source drug to the list in either of these two circumstances. This provision allows OMPP to bypass the Board approval and allows the Board to bypass the recommendations of the Therapeutics Committee. (The Therapeutics Committee was established to provide the Board with additional clinical expertise for the research and development of the PDL.) This provision appears to have no significant fiscal impact since the language is permissive.

The bill will allow the Office of Medicaid Policy and Planning to maintain administrative operating efficiencies by allowing program controls similar to those used in the Medicaid Program for the Hoosier Rx prescription drug program under the Pharmacy Plus Medicaid 1115 Demonstration Waiver application. The bill will allow the waiver program to limit access to drugs in order to control costs due to inappropriate use of prescription drugs. The bill will not limit access to drugs that are medically necessary according to the participant's physician. The bill will eliminate the necessity to operate a separate or slightly different pharmacy benefit management program for the Hoosier Rx Program and will allow waiver participants to take advantage of the cost containment programs implemented by the Office of Medicaid Policy and Planning. Hoosier Rx participants receive a 50% reduction in the amount owed for a prescription at the point of sale. The participants recognize savings as a result of being charged the Medicaid cost of the prescription; any additional savings achieved by the application of cost saving measures such as the Medicaid Preferred Drug List are savings recognized immediately by the individual as well as the Hoosier Rx program and the Prescription Drug Waiver Program.

Expenditures in the Medicaid program are shared, with about 62% of program expenditures reimbursed by the federal government and 38% provided by the state.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Family and Social Services Administration, Office of Medicaid Policy and Planning.

Local Agencies Affected:

Information Sources: Amy Kruzan, Legislative Liaison for the Family and Social Services Administration, (317)-232-1149. Indiana Hoosier Rx Medicaid, Section 1115 Demonstration Waiver Application at: <http://cms.hhs.gov/medicaid/1115/in1115ihrx.asp>

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